

REMARKS

Applicants respectfully request entry of this amendment, and reconsideration and allowance of subject application. Claims 1, 8, 18, 23, 27, 32, and 33 are amended. Claims 1-11 and 13-36 remain pending.

Applicants are very grateful to the Examiner for taking the time to discuss the claims and the prior art with Applicants' attorney.

CLAIM OBJECTIONS

Applicants have amended claims 8, 18, 23, 32, and 33 to address the Office Action's objection to the use of phrases "may be suitable," "attempt," and "attempting." Applicants have also amended claim 33 to address an error noted by the Office Action. Applicants respectfully submit that the amendments to claims 8, 18, 23, 32, and 33 will resolve the objections noted by the Office Action.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

Claims 1-5, 7-11, 13-15, 17-18, 20, 22-24, and 26-36 were rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 5,548,648 to Yorke-Smith (hereinafter “Yorke-Smith”) in view of U.S. Patent No. 6,668,325 to Collberg et al. (hereinafter “Collberg”) and in further view of U.S. Patent No. 6,901,516 to Howard et al. (hereinafter “Howard”). Applicants note that, although the Office Action applied the same rejection to claim 12, claim 12 previously was canceled by the applicants. Applicants respectfully traverse the rejection.

These remarks address the patentable distinctions of independent claims 1, 8, 18, 23, 27, 32, and 33 over the cited references. To reduce the number of issues for consideration, the differences between the cited references and dependent

claims 2-5, 7, 9-11, 13-15, 17, 20, 22, 24, 26-31, and 34-36 are not individually addressed. Nonetheless, claims 2-5, 7, 9-11, 13-15, 17, 20, 22, 24, 26-31, and 34-36 apply additional elements to the independent claims from which they depend and, therefore, are patentable for at least the same reasons as the claims from which each depends. Thus, applicants respectfully request that the rejection under 35 U.S.C. § 103 be withdrawn with regard to claims 1-5, 7-11, 13-15, 17-18, 20, 22-24, and 26-36.

Applicants' decision not to discuss the differences between the cited art and each dependent claim with regard to rejections under 35 U.S.C. § 103 should not be considered as an admission that applicants concur with the Office Action's conclusion that these dependent claims are not patentable over the cited references. Similarly, applicants' decision not to discuss differences between the prior art and every claim element, or every comment in the Office Action, should not be considered as an admission that applicants concur with interpretations and assertions regarding those claims in the Office Action.

Applicants submit that claims 1-5, 7-11, 13-15, 17-18, 20, 22-24, and 26-36 are patentably distinct from the applied references for at least two reasons. First, the cited references neither teach nor suggest, as recited in claim 1 for example, "assembling the protected digital good by collecting the plurality of protected segments," and "checkpoints inserted in the protected digital good at varying positions outside of and relative to the protected segments with which the checkpoints are associated." The Office Action equates the checkpoints with control blocks disclosed by Yorke-Smith. Respectfully, however, Yorke-Smith does not teach or suggest inserting the control blocks in the protected digital good at varying positions outside of and relative to the protected segments."

1 According to Yorke-Smith, the control blocks are inserted in one of two
2 places, neither of which is included in the assembled “protected digital good” and
3 “at varying positions outside of and relative to the protected segments with which
4 the checkpoints are associated.” In one alternative, the control blocks are included
5 *within* the encrypted data segments:

6 In FIG. 1 there is shown data (D) to be encrypted. The data is
7 divided up into a plurality of data segments. The length of each data
8 segment (DS) varies and is determined by a respective random
9 number (L.sub.2) generated for each data segment. *The encrypted*
10 *data comprises a control block (CB) and an encrypted data block*
11 *(EDB) for each data segment (DS). The encrypted data block*
12 *(EDB) includes an encrypted data segment (EDS) (i.e. a segment*
13 *that actually contains the original data segment in encrypted*
14 *form). The control block (CB) comprises a plurality of fields*
15 *containing information concerning the format of the data bytes in the*
16 *encrypted data block (EDB), in particular the encryption function (F)*
17 *and encryption key (K) used to encrypt the data segment (DS) and*
18 *an indication of the starting position (S) of the encrypted data*
19 *segment (EDS) within the encrypted data block (EDB) which is*
20 *chosen at random.*

21 (Yorke-Smith, Column 3, Lines 25-40; emphasis added.) Moreover, Figure 1, to
22 which the foregoing text refers, shows that the control block (CB) is positioned
23 *inside* the data segment (DS) to be encrypted, along with the encrypted data
24 segment (EDS). Thus, in this alternative, the control block is not inserted outside
25 of the protected segments as recited in the independent claims.

Although Yorke-Smith discloses a second alternative positioning of its
control blocks, this second alternative still fails to disclose an embodiment where
“the checkpoints are inserted in the protected digital good at varying positions
outside of and relative to the protected segments with which the checkpoints are
associated.” In a second alternative, Yorke-Smith discloses storing the
checkpoints *in a separate file* from the encrypted data:

1 Rather than storing the control block and the encrypted data
2 block together in the same record an embodiment of the invention
3 can be realised in which they are stored separately. ***Each control
4 block is stored as a record and the encrypted data blocks are stored
5 in a separate file as contiguous bytes.*** Accordingly, when the
6 decryption data is extracted from the control bloc:, [sic] the next
7 L.sub.1 bytes are read from the file containing the encrypted data
8 blocks.

9 (Yorke-Smith, Column 6, Lines 6-14; emphasis added). Thus, in storing the
10 control blocks outside of the encrypted data, the only possibility Yorke-Smith
11 teaches is to contiguously store the control blocks in a separate file. In storing the
12 control blocks in a separate file, the control blocks, as recited by claim 1, are not
13 part of the “protected digital good” which is formed by “collecting the plurality of
14 protected segments” and in which “the checkpoints are inserted in the protected
15 digital good.”

16 In sum, Yorke-Smith discloses either inserting control blocks inside the
17 protected segments or storing the control blocks in a separate file, but fails to teach
18 or suggest the possibility of “assembling the protected digital good by collecting
19 the plurality of protected segments,” in which “the checkpoints are inserted in the
20 protected digital good at varying positions outside of and relative to the protected
21 segments with which the checkpoints are associated.” Thus, for this first reason
22 alone, applicants respectfully submit that claim 1, is patentable over the cited
23 references. Similarly, independent claims 8, 18, 23, 27, 32, and 33, as well as the
24 claims depending from the independent claims, are patentable for the same reason.

25 Second, the cited references neither teach nor suggest, as recited in claim 1
for example, “checkpoints being operable to cause a system receiving the
protected digital good to invoke a function call to validate that at least one
protected segment.” Each of the control block described by Yorke-Smith, as

reproduced above, “comprises a plurality of fields containing information concerning the format of the data bytes in the encrypted data block (EDB), in particular the encryption function (F) and encryption key (K) used to encrypt the data segment (DS) and an indication of the starting position (S) of the encrypted data segment (EDS) within the encrypted data block (EDB) which is chosen at random” (Yorke-Smith, Column 3, Lines 33-40). The control blocks disclosed by Yorke-Smith only contain data that may be used to decrypt the associated data segment. The control blocks of Yorke-Smith are not operable to invoke a function call to validate that the at least one protected segment with which the checkpoint is associated has not been tampered with.” A routine or program used by Yorke-Smith may use the *data* included in the control block to determine whether the data segment has been tampered with, but Yorke-Smith does not disclose that the control block is operable to invoke a function call to validate the data segment.

Thus, for this second reason alone, in addition to the first reason, applicants respectfully submit that claim 1, is patentable over the cited reference. Similarly, independent claims 8, 18, 23, 27, 32, and 33, as well as the claims depending from each of the independent claims, in addition being patentable for the first reason alone, also are patentable for this second reason alone.

The Office Action rejected dependent claims 6, 16, 19, 21, and 25 under 35 U.S.C. § 103 over other combinations of references. Claims 6, 16, 19, 21, and 25 apply additional elements to the independent claims and, therefore, are patentable for at least the same reasons as the claims from which each depends. Applicants’ decision not to discuss the differences between the cited art and these claims should not be considered as an admission that applicants concur with the Office Action’s conclusion that these dependent claims are not patentable over the cited

1 references. Thus, applicants respectfully request that the rejection under 35 U.S.C.
2 § 103 be withdrawn with regard to claims 6, 8, 16, 18-19, 21, 23, 25, and 32-33.

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4 CONCLUSION

5 Applicants submit that the proposed amendment places pending claims
6 1-11 and 13-36 in condition for allowance. Applicants further submit that no new
7 matter is introduced by the proposed amendment. Applicant respectfully requests
8 reconsideration and prompt issuance of the subject application. If any issues
9 remain that prevent issuance of this application, the Examiner is urged to contact
10 the undersigned attorney before issuing a subsequent Action.

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12
13 Respectfully Submitted,

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